



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/717,859

11/19/2003

Dana Eagles

930007-2192

9489

20999

7590

11/22/2006

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

KUMAR, PREETI

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

8

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/717,859

Applicant(s)

EAGLES, DANA

Examiner

Preeti Kumar

Art Unit

1751

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Douglas M Ginty
DOUGLAS MCGINTY
SUPERVISORY PATENT EXAMINER

1751

Continuation of 11. does NOT place the application in condition for allowance because: 1. Applicants arguments filed in the after final response 10/26/2006 have been fully considered.

Applicants urge that Denton et al. does not teach spirally winding machine direction yarns and depositing a pattern of cross machine direction elements as recited by claim 26. Contrary to Applicants arguments, the very nature of the weaving process involves the yarn filaments to be orthogonal (see figures 4-5, and col.1,ln.50-55) and thus this trait of the yarn filaments being deposited orthogonally, encompasses the material limitation to the claimed language of spirally winding machine direction yarns and depositing a pattern of cross machine direction elements. Further, the prior art teaches that the patterned PMC is constructed of fibers running in the machine or cross machine direction, but such clothings could be constructed of fibers which run in directions that are at angles to the machine and cross machine direction of a PMC machine. See col.4,ln.35-45.

Applicant's urge that Rexfelt et al. do not teach any CD elements. Contrary to Applicant's arguments, Rexfelt et al. teach in a specific embodiment in col.3,ln.1-10, wherein the spiral turns in the different layer are placed crosswise to make an angle with the machine direction. See col.3,ln.2-5. Although, the prior art does not use the same terminology of "cross machine direction elements" as recited by the instant claims, it is not seen nor do Applicants arguments explain how the mutually orthogonal thread systems consisting of longitudinal threads (warp threads) and cross threads (weft threads) is unanalogous and different to the claimed language of cross machine direction elements. See col.4,ln.30-35.

Applicant's urge that Davenport et al. do not the use of CD yarns that contribute to the structural integrity of the fabric and instead the prior art teaches CD elements for seaming purposes and thus cannot serve as CD elements as recited by the instant claim 26. First, Examiner would like to point out that Applicants are arguing limitations of dependent claim 27, which limitation is not part of the broadest interpretation of independent claim 26. Also, contrary to Applicants arguments, Davenport et al. teach a woven base fabric, having an inner surface, a longitudinal (machine) direction and a transverse (cross-machine) direction. The lengthwise (warp) yarns of the woven fabric strip make the same relatively small angle with the longitudinal (machine) direction of the woven base fabric. Similarly, the crosswise (filling) yarns of the woven fabric strip, being perpendicular to the lengthwise (warp) yarns, make the same relatively small angle with the transverse (cross-machine) direction of the woven base fabric. In short, neither the lengthwise (warp) nor the crosswise (filling) yarns of the woven fabric strip align with the longitudinal (machine) or transverse (cross-machine) directions of the woven base fabric. See [0018]..